

EASTERN DISTRICT OF TEXAS

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Pending before the court are Plaintiffs Calvin Walker (“Walker”), Walker’s Electric, Walkers Electric, and Jessie Haynes’s (“Haynes”) (collectively, “Plaintiffs”) Objections to Magistrate Judge’s Report and Recommendations on the IBEW 479 Defendants’ Motion to Dismiss (#295). The court referred this matter to United States Magistrate Judge Keith F. Giblin for consideration and recommended disposition of case-dispositive pretrial motions (#55). On February 9, 2017, Judge Giblin issued a Report and Recommendation (#293), wherein he recommended that the court grant Defendant International Brotherhood of Electrical Workers Local Union 479 (“IBEW 479”), David Gonzales (“Gonzales”), Steven Lisle (“Lisle”), and Chris Kibby’s (“Kibby”) Motion to Dismiss for Lack of Subject Matter Jurisdiction and Under Federal Rule of Civil Procedure 12(c) (#254) and Defendant Duwayne Hermann, Jr.’s (“Hermann”) Motion to Dismiss for Lack of Subject Matter Jurisdiction Under Federal Rule of Civil Procedure

12(c) (#256). The court has reviewed Plaintiffs' objections and concludes that they should be overruled. Therefore, the court adopts the report and recommendation of the magistrate judge.

The factual and procedural history of this case has been laid out in numerous prior orders. Additionally, the court notes that Judge Giblin's recommended dismissal was based on the same grounds granted by this court in its ruling on the International Brotherhood of Electrical Workers' ("IBEW") motion to dismiss, and the claims asserted against IBEW 479 are essentially identical to those asserted against IBEW. Docs. Nos. 240, 248.

I. Discussion

A party who files timely, written objections to a magistrate judge's report and recommendation is entitled to a *de novo* determination of those findings or recommendations to which the party specifically objects. 28 U.S.C. § 636(b)(1)(c); FED. R. CIV. P. 72(b)(2)–(3). "Parties filing objections must specifically identify those findings [to which they object]. Frivolous, conclusive or general objections need not be considered by the district court." *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc); *accord Bank of America, N.A. v. Ingram*, No. 1:12-cv-55, 2012 WL 2524274, at *1 (E.D. Tex. June 29, 2012); *Flynn v. State Farm Fire & Cas. Ins. Co. (Tex.)*, 605 F. Supp. 2d 811, 813 (W.D. Tex. 2009); *Savage v. Barnhart*, 372 F. Supp. 2d 922, 924 n.1 (S.D. Tex. 2005). Here, the court has undertaken a *de novo* review of the report and recommendation and concludes that Plaintiffs' objections are without merit.

In the instant objections, Plaintiffs reassert similar objections to those they made to Judge Giblin's report and recommendation (#240), which this court has already addressed and overruled.

Doc. No. 248. Accordingly, Plaintiffs' instant objections are overruled as well for the same reasons discussed in the court's previous order.

II. Conclusion and Order

For the foregoing reasons, the court ORDERS that Judge Giblin's Report and Recommendation (#293) is ADOPTED in its entirety. Plaintiffs' Objections (#295) are OVERRULED. The court further ORDERS that the IBEW 479, Gonzales, Lisle, and Kibby's Motion to Dismiss (#254) and Hermann's Motion to Dismiss (#256) are GRANTED, as set forth in the report and recommendation.

Therefore, because this order dispenses with all of Plaintiffs' claims against the above-listed defendants, they are further ordered to be DISMISSED as parties to this case.

Signed this date

Mar 7, 2017

A handwritten signature in black ink, reading "Marcia A. Crone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE